Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Cross-Ownership of Broadcast Stations and Newspapers	)	**MM Docket No. 01-235**
	)	
	)	
Newspaper/Radio Cross-Ownership Waiver Policy	)	**MM Docket No. 96-197**
	)	

COMMENTS OF THE HEARST CORPORATION

Submitted by:

Jennifer L. Blum
Drinker Biddle & Reath LLP
1500 K Street, N. W.
Suite 1100
Washington, DC 20005

Its Attorneys

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SUMMARY

In revising several multiple ownership rules since 1996, both Congress and the Commission have acknowledged the significant changes in technology that have created a diverse and competitive media marketplace over the last three decades. The issuance of the *Notice of Proposed Rulemaking* to consider revision to the newspaper-broadcast cross-ownership rule provides an additional opportunity for the Commission to acknowledge those changes by repealing the restriction.

Hearst urges the Commission to recognize the diversity in the number of local media outlets. Today's media marketplace provides the public with more local outlets for news and information than ever. The data provided for the record demonstrates that, while the number of local outlets has increased, the number and circulation of daily newspapers has declined. With maintenance of the current restriction, daily newspapers may find it increasingly difficult to compete in the diverse media marketplace, thus threatening, instead of protecting, local diversity. Repeal of the cross-ownership restriction would ensure the newspaper industry's ability to compete effectively within the larger communications industry.

Repeal of the cross-ownership rule would not adversely affect the strong competition present in local advertising markets throughout the country. Although newspapers and broadcast stations compete vigorously for advertising revenue, they may not always be fully substitutable for all forms of advertising. In addition, there are an increasing number of other competitors, including the Internet, that compete for local advertising revenue and provide a check against the development of market power. By repealing the cross-ownership restriction, the Commission would allow newspapers and broadcasters to utilize synergies and economies that enhance, not harm local market competition.

In its *Notice*, the Commission seeks empirical data on diversity and competition within markets of varying size. The Appendices accompanying these Comments provide statistical information on the number of diverse and competitive outlets in three of Hearst's newspaper markets, Albany, New York; San Antonio, and San Francisco. The data provided for all three markets indicate that in the event of a newspaper broadcast combination, local diversity and competition is ensured through the significant number of outlets in each market.

As presented in these Comments, retention of the cross-ownership restriction no longer serves the public interest and repeal of the restriction would be consistent with the treatment by Congress and the Commission of other multiple ownership rules.

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The Hearst Corporation ("Hearst"), by its attorneys, hereby submits these comments in response to the Commission's *Order and Notice of Proposed Rulemaking* in MM Docket 01-235, released September 20, 2001 ("*NPRM*" or "*Notice*"). Hearst supports repeal of the Commission's current newspaper-broadcast cross-ownership restriction.[1]

I. Statement of Identity and Interest

Hearst is a privately held company with broad communications interests, including newspapers, magazines, business publishing and broadcast stations.[2] These comments are filed in particular on behalf of Hearst Newspapers, a division of Hearst, which publishes twelve daily newspapers – both in major cities and smaller markets – and fourteen weekly newspapers in New York, Texas, and Michigan.

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[1] 47 C.F.R. § 73.3555(d).

[2] The broadcast television properties are for the most part held by Hearst-Argyle Television, Inc., a publicly traded company in which Hearst has a controlling interest. Hearst-Argyle is submitting separate comments in this proceeding. Hearst also has ownership interests in cable networks and additional broadcast properties and produces and distributes programming for cable and television.

Hearst is participating in this proceeding as an interested party to provide the Commission with empirical and other information regarding the impact of the newspaper-broadcast cross-ownership restriction on the current marketplace, to advocate elimination of the restriction, and to discuss the potential benefits for both diversity and competition that repeal of the cross-ownership restriction would have in local markets.

As Hearst has stated to the Commission in previous proceedings, Hearst files to ensure that the newspaper industry's ability to compete within the larger communications industry is not unfairly or unnecessarily restricted.[3] While many other media companies are now able to own multiple media outlets in the same market, the current restriction prohibits newspaper companies from owning both a newspaper and a broadcast station in the same market.

During a time when the Commission has relaxed several of its other ownership restrictions, the diversity of the local communications marketplace has increased. Local diversity will remain unharmed by the repeal of the cross-ownership restriction. The Commission has noted the lack of public empirical data available to support this conclusion. In this filing, Hearst provides empirical data on diversity and competition within some of Hearst Newspapers' own markets -- Albany, New York; San Antonio, Texas; and San Francisco, California. The data includes information regarding the number of voices present in each of these markets, as well as the level of competition currently present in the local advertising

[3] *Comments of the Hearst Corporation (1998 Biennial Regulatory Review – Review of the Commission's broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996)*, MM Docket 98-35 (1998) ("*Hearst Comments*"); *Reply of the Hearst Corporation (1998 Biennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996)*, MM Docket 98-35 (1998) ("*Hearst Reply*").

markets. All three markets, while substantially different in size and demographics, are remarkably diverse and competitive in their media mix.

As a company with interests in multiple forms of media, Hearst has significant experience in fostering synergies and innovations both within and among its operating groups. Hearst believes strongly that, with repeal of the cross-ownership restriction, both diversity and competition in the local media marketplace will continue to thrive and economies of scale and associated synergistic relationships will result in more creative, exhaustive, and diverse coverage of news and information.

II. The Adoption of the Cross-Ownership Restriction Was Not Based on Empirical Evidence of Harm to the Public Interest and Continues to Have No Such Basis

Historically, the Commission based its broadcast ownership regulations, including the cross-ownership restriction, on the public interest's "twin goals" of ensuring the diversity of viewpoints and economic competition.[4] During the 1960s and 1970s, the Commission promulgated regulations to expand a number of ownership restrictions limiting local television-radio cross-ownership, chain broadcasting and national broadcast ownership.[5] The Commission's adoption of the newspaper-broadcast cross-ownership restriction represented the culmination of this effort to regulate the broadcast industry. These regulations were driven by

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[4] *Second Report and Order (Amendment of Sections 73.34, 73.240 and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM and Television Broadcast Stations)*, 50 FCC 2d 1046, 1074-75 (1975) ("Second Report and Order"); The D.C. Circuit Court of Appeals upheld the promotion of diversity and preservation of competition as sufficient to support ownership restrictions in its *Time Warner* decisions. *Time Warner Entertainment Co. v. FCC*, 240 F.3d 1126, 1130 (D.C. Cir. 2001)("*Time Warner II*")(citing *Time Warner Entertainment Co. v. U.S.*, 211 F.3d 1313(D.C. Cir. 2000)("*Time Warner I*").

[5] *Second Report and Order*, 50 FCC 2d at 1075; Richard T. Kaplar, The Media Institute, *Cross-Ownership at the Crossroads, The Case for Repealing the FCC's Newspaper/Broadcast Cross-Ownership Ban* 1 (1997).

concerns over the consolidation of media companies and its effect on the Commission's increasing interest in diversity.[6] In the early years of this process, the newspaper industry withstood any consideration of ownership restriction, because it was well understood that the newspaper industry's ownership involvement in both radio and television was instrumental in the development and success of those technologies.[7]

At the time the Commission implemented the cross-ownership restriction, the Commission was not acting on empirical evidence that newspaper ownership in the broadcast industry had harmed either the competitive nature or the diversity of the market; rather, the Commission concluded that newspaper-broadcast ownership was no longer necessary to the success of radio and television, and that the restriction might promote competition and diversity.[8] The Commission noted that "[e]ven a small gain in diversity justified the new cross-ownership rule."[9] The Commission reached its decision to restrict cross-ownership not on factual evidence that such combinations reduced diversity or decreased competition, but rather on a prospective, presumptive concern that diversity and competition might best be fostered by restricting local newspapers' access to these limited broadcast licenses.

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[6] *Second Report and Order*, 50 FCC 2d at 1049-50.

[7] As one of the oldest companies involved in both radio and television, Hearst was instrumental in the birth of both industries. Prior to 1920, Hearst was primarily a newspaper and magazine publisher. However, during the 1920s the company began producing movie newsreels and purchasing radio stations. In 1948, Hearst purchased one of the first television stations in the country, WBAL-TV, in Baltimore, where it also owned a daily newspaper.

[8] *Second Report and Order* at 1074-75 (1975) ("Second Report and Order); *See also* Lorna H. Veraldi, *Carpooling on the Information Superhighway: The Case for Newspaper-Television Cross-Ownership*, 8 St. Thomas L. Rev. 349, 361 (1996)(noting that the Commission's rulemaking was not based on any empirical showing of harm; merely on prospective concerns regarding diversity).

[9] *Second Report and Order*, 50 FCC 2d at 1080 n.30.

To this day, Hearst is aware of no empirical evidence that cross-ownership harms either the promotion of diversity of local viewpoints or the preservation of local competition. Such empirical evidence is lacking both in the many grandfathered markets where cross-ownership existed (and in some cases still exists) and in markets where other forms of consolidation have occurred. As the D.C. Circuit Court of Appeals recently reiterated in its *Time Warner II* decision, the Commission must justify its ownership restrictions with "'reasonable inferences based on substantial evidence'" of harm.[10] In fact, as demonstrated in more detail below, empirical evidence indicates that local viewpoint diversity and local competition continue to thrive during times of technological change. It is on this basis that Hearst urges repeal of the cross-ownership restriction.

III. With the Advent of New Technologies Since 1975, the Diversity of the Media Market Continues to Grow

The Supreme Court has stated that it identifies a "'governmental purpose of the highest order' in ensuring public access to a multiplicity of information sources."[11] The evidence below on the number of media outlets indicates that today's media marketplace provides the public with more local outlets for news and information than ever. As the Commission and Congress have

[10] *Time Warner II*, 240 F. 3d at 1133 (quoting *Turner Broadcasting System, Inc. v. Federal Communications Commission*, 512 U.S. 622, 666 (1994) ("*Turner I*")). The courts have held that the FCC must do more than "posit the existence of the disease sought to be cured." *Id.* (quoting *Quincy Cable TV, Inc. v. FCC*, 768 F.2d 1434, 1455 (D.C. Cir. 1985)).

[11] *Turner Broadcasting System, Inc. v. Federal Communications Commission*, 520 U.S. 180, 190 (1997) (quoting *Turner I*, 512 U.S. at 663)("*Turner II*").

already found, local viewpoint diversity has remained strong in the face of relaxation and repeal of other ownership rules.[12]

The Commission correctly states in its *Notice* that evidence previously submitted for the record strongly suggests that, while the local media marketplace has changed, the number of local broadcast outlets has continued to increase dramatically since 1975.[13] Hearst provides here additional data regarding the newspaper industry and the impact of alternative local media outlets on diversity.

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[12] The Telecommunications Act eliminated the national radio ownership cap, relaxed the local radio ownership cap, and relaxed the national television audience cap. Telecommunications Act of 1996, Pub. L. No. 104-104 § 202, 110 Stat. 56 (1996) ("1996 Act"). The statute also included deregulatory provisions on dual network restrictions, cable-broadcast cross-ownership, and as well as more liberal one-to-a market waivers. In 1999, the Commission relaxed its local television ownership restrictions, permitting the common ownership of two stations in the same local market under certain conditions and also permitting increased cross-ownership of radio and television stations in a market. *Report and Order (Review of the Commission's Regulations Governing Television Broadcasting; Television Satellite Stations Review of Policy and Rules)*, MM Docket Nos. 91-22, 87-8, FCC 99-209 (1999) ("*Local Television Report and Order"); see also Petition of the Hearst Corporation, Media General, Inc., Gannett Company, Inc., and Tribune Company in Support of the Newspaper Association of America's Emergency Petition for Relief*, MM Docket Nos. 98-35, 96-197 (1999) ("*Hearst Petition*"). In 2000, the Commission relaxed its Dual Network rule allowing a broadcaster to own more than one network in a DMA. *In the Matter of Amendment of Section 73.658(G) of the Rules – the Dual Network Rule*, 15 FCC Rcd 11253 (2000) ("*Dual Network Order*"). The Commission also recently issued a notice of proposed rulemaking to review its local radio ownership rules. *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking to Review its Rules and Policies Concerning Multiple Ownership of Radio Broadcast Stations in Local Markets*, MM Docket Nos. 01-317, 00-244, FCC 01-329 (rel. Nov.8, 2001)("*Radio NPRM*").

[13] *NPRM* at ¶9. Because the Commission in its *Notice* cited extensive data regarding the growth in the broadcast industry, Hearst Newspapers does not revisit the Commission's own statistics.

A. Newspapers

The Commission notes that the number of daily newspapers has decreased nationally since 1975,[14] and that daily newspaper circulation has decreased overall about 8% between 1975 and 2000.[15] Still, as of 1999, over half of the adults in the United States continue to read a daily newspaper; sixty-six percent read the paper on Sundays.[16] The statistics on the status of weekly newspapers show a dramatic difference, however. While the number of weeklies increased only slightly between 1975 and 2000, their circulation roughly doubled from 35,892,409 to 70,949,633.[17]

The Commission inquires specifically about the significance of this data to the Commission's analysis.[18] Newspapers -- dailies and weeklies alike -- regardless of circulation size, remain an important source for local news and information. While the circulation for weekly newspapers has risen and the number of other outlets for local news and information has increased, the Commission should take note of the overall decline in the number and circulation of daily newspapers. These statistics are consistent with the proposition that, without repeal of

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[14] *NPRM* at ¶10. It is worth noting that the decline of the number of daily newspapers results from the 50% decline in the number of daily evening newspapers. The number of daily morning newspapers actually increased between 1975 and 2000 from 339 to 766. *NAA Market and Business Analysis Department*, <http://www.naa.org/artpage>.

[15] *Id.* Newspaper Association of America, *Facts About Newspapers 2000, A Statistical Summary of the Newspaper Industry* 16 (2001)("*Facts About Newspapers*"). Interestingly, Sunday circulation increased during the same period by a similar amount. *Id.*

[16] *Facts About Newspapers* at 6. The percentage of the adult population who read the daily newspaper steadily rises with age – 72% of Americans over 65 read the newspaper daily; 42% of Americans between 18-24 read the newspaper daily. *Id.* at 7.

[17] *Id.* at 15. The 2000 circulation figure, however, represents a decrease from the Commission's own 1999 figure in the *NPRM*. *See NPRM* at ¶10.

[18] *NPRM* at ¶10.

the archaic newspaper-broadcast cross-ownership rule, daily newspapers may find it increasingly difficult to compete in the diverse marketplace against media that do not have such restrictions.

The elimination of the one-to-a-market rules and the cable-broadcast cross-ownership restriction has been mentioned earlier.[19] A firm like AOL Time Warner can now own and operate the local cable franchise, a television station, a local web site with local news, and a regional cable network with regional news. Restricting a newspaper's ability to compete with such combinations by making use of the synergies and economies that result from ownership of a television station might actually threaten, not protect, the level of viewpoint diversity in the marketplace.

B. MVPDs

As the Commission correctly notes in its *Notice*, there has been a "proliferation" of other outlets in the local media marketplace since 1975.[20] The Commission's statistics indicate that the growth in the number of cable systems in the United States since 1975 is dramatic.[21] In addition, direct broadcast satellite (DBS) is playing an increasing role in the media market, with penetration at about 15% nationwide.[22]

The Commission seeks comment on how the success of these multichannel video programming distributors (MVPDs) impacts the current restriction on cross-ownership.[23] The

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[19] *See* fn. 13.

[20] *NPRM* at ¶11.

[21] *NPRM* at ¶11. *See also* National Cable Television Association, <http://www.ncta.com/industry_overview>.

[22] Figure derived from the Satellite Broadcasting and Communications Association, <http://www.sbca.com> (SBCA).

[23] *NPRM* at ¶11.

MVPD industry has provided consumers with a significantly increased number of channels and programming on their televisions. The Commission notes that at the time of the cross-ownership restriction, television viewers were limited to watching the three major VHF broadcast networks and a few additional UHF stations.[24] Today, 99% of cable subscribers have access to 30 or more channels. The satellite industry offers an average of 200 channels.[25] The sheer increase in channel capacity translates into substantially more viewpoint diversity than existed in 1975.

While many of the additional cable channels focus on national news and entertainment programming, cable programming increasingly provides access to government channels and other channels carrying local or regional news.[26] Time Warner Cable, for example, has created 24-hour regional news networks in five of its markets -- Austin, Texas; Tampa Bay and Orlando, Florida; New York City and Rochester, New York; and has announced plans to launch in six additional Time Warner Cable markets -- Albany and Syracuse, New York; San Antonio and Houston, Texas; Raleigh and Charlotte, North Carolina. [27]

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[24] *Id.* at ¶1.

[25] SBCA, <http://www.sbca.com/mediaguide/satprogram.htm>.

[26] Satellite providers are slowly beginning to provide local channel coverage in more of their markets, as well.

[27] Time Warner Cable, <http://www.cablesites.com/press_room>. Hearst has newspapers in Albany, San Antonio and Houston. Hearst also shares ownership with AT&T of one of the first regional cable news networks, New England Cable News in Boston.

C. The Internet

The explosive development of the Internet during the last few years provides consumers with enormously increased access to diverse local voices. A report issued by the UCLA Center for Communications Policy on November 28, 2001 indicates that 72.3% of Americans are now online and spend and an average of 9.4 hours per week on the Internet.[28] Evidence also indicates that the increased Internet usage is occurring among Americans of all incomes.[29] According to Nielsen//Net Ratings, the U.S. at-home Internet population increased 16% from July 2000 to July 2001, despite a declining economy and lower PC sales.[30]

The *UCLA Internet Report 2001* provides important information on how Internet usage may affect usage of other media. The report finds that those Americans who use the Internet also employ multiple forms of other media.[31] According to the UCLA report, Internet use does not cause Americans to significantly alter other activities, with the exception of time spent watching television.[32] A recent study by Scarborough Research similarly found that, while some online

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[28] The UCLA Center for Communications Policy, Internet Report 2001, *Surveying the Digital Future* 17-18, November 2001 ("*The UCLA Internet Report 2001*") . A recent study by Scarborough Research indicated that in a snapshot sampling of Internet use taken earlier this year, almost half of all American adults had used the Internet within the last 30 days. Forty-two percent of all users accessed some form of streaming media during that same time period. *First Scarborough National Internet Study Reveals Changes in How Online Consumers Use Traditional and Internet Media*, <http://www.scarborough.com/scarb2002/press/pr_internetstudy1.htm> (*Scarborough Study*).

[29] Humphrey Taylor, *Internet Penetration Has Leveled Out Over the Last 12 Months*, <http://www.harrisinteractive.com/harris_poll/latest.asp>. Fifty-four percent of all adult Americans have incomes of $50,000 or less. Of these, over 42% now access the Internet.

[30] Nielsen//Net Ratings, <http://www.nielsen-netratings.com>.

[31] *The UCLA Internet Report 2001*, at 30.

[32] *Id.* at 32.

users indicated that they read the newspaper less or watch television less, "the majority of online users stated that they have not altered their traditional media consumption or they aren't sure how it changed."[33] Thus, while it is still not entirely clear what effect the Internet is having on other media usage, it is clear that Americans are utilizing new sources for local news and entertainment.[34]

The Commission notes that many web sites are operated by newspapers or broadcast stations and seeks comment on the level of independence of local news and information available over the Internet.[35] While it is difficult to quantify the number of independent Internet-based providers of news and information that exist nationwide and how often consumers access these sites, such providers do exist in significant numbers within local communities. For example, about.com is a web site owned and operated by Primedia that provides users access to local news and information from cities throughout the United States.[36] Other noteworthy examples are local web sites operated by Yahoo, and AOL Time Warner (Digital City).

It is particularly noteworthy that, while many Internet sources for news and information are commercial in nature, the consumer also now benefits from the significant growth of non-commercial, local government Internet sites. These local government sites provide residents with direct access, at any time of the day, to government news and information previously received only commercially (or on public access channels) from the media. The ability of

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[33] *Scarborough Study*, <http://www.scarborough.com/scarb2002/press/pre_internetstudy1.htm.>

[34] *UCLA Internet Report 2001*, at 90.

[35] *NPRM* at ¶16. Hearst emphasizes that a website operated by a newspaper or broadcast company does not necessarily diminish its value as a separate outlet for viewpoint diversity.

[36] Additional examples of such sites in Albany, San Antonio and San Francisco are provided in Appendices A-C.

citizens to access such information independently online provides the Commission with additional assurance as to the ample diversity of both outlets and viewpoint at the local level throughout the United States. Such access will be unaffected by the repeal of the cross-ownership rule.

IV. Repeal of the Newspaper-Broadcast Cross-Ownership Restriction Would Enhance, Not Harm, Local Competition in the Media Marketplace

A. Antitrust Methodology

The Commission seeks confirmation that the local advertising market is the primary economic market in which broadcast stations and newspapers compete.[37] The Commission additionally inquires whether or how to utilize determinations by the Department of Justice and a number of courts that some individual media advertising markets are distinct or separate product markets.[38] Similarly, the Commission seeks comment on whether it should apply an antitrust analysis when determining what geographic market to review.[39]

The inquiries raised by the Commission demonstrate the continued conflict between the Commission and the roles that the Department of Justice and the Federal Trade Commission play in reviewing communications combinations. It should be emphasized that the determinations that the Department of Justice and the courts have made with regard to broadcast and newspaper advertising markets were generally based on mergers within a particular medium, and were made on a case-by-case basis, not on a blanket policy basis.

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[37] *NPRM* at ¶19.

[38] *Id.* at ¶21.

[39] *Id.* at ¶¶ 23-24.

In making individual determinations with regard to newspaper-broadcast combinations, the Commission should be mindful that the Department of Justice will retain the responsibility for determining, on a case-by-case basis, whether such combination would violate antitrust law.[40] It also should be noted that relaxation, as opposed to outright repeal, of the current rule may also require analysis of the print and other media not traditionally within the purview of the Commission's jurisdiction. That said, Hearst provides the following observations.

B. The Current Media Marketplace is Competitive

It is generally recognized that advertising provides the market-based incentive for both the broadcast and newspaper industries, as well as other media, to ensure both diversity and competition in the local marketplace.[41] However, as suggested earlier, how the advertising market is defined, and what media it includes, are subject to case-by-case determinations that often cannot be reconciled with each other.

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[40] The Department of Justice, not the Federal Trade Commission, has generally maintained jurisdiction over antitrust issues relating to the newspaper industry. "The antitrust laws exist to promote consumer welfare. . . By repealing the newspaper-television cross-ownership rule, the FCC would not be repealing 'diversity of viewpoints,' 'diversity of expression,' 'diversity of ownership,' and similar articulations of the purpose of the newspaper-television cross-ownership rule; rather, the Commission would be establishing that those objectives are properly made coextensive with the antitrust laws' goal of maximizing consumer welfare." *Affidavit of J. Gregory Sidak, American Enterprise Institute, on behalf of the Newspaper Association of America* 11, July 21, 1998.

[41] Mark S. Fowler & Daniel L. Brenner, *A Marketplace Approach to Broadcast Regulation*, 60 Tex. L. Rev. 207, 210 (1982). The Commission's historical understanding that advertisers provide broadcasters all of their financial support, as well as pressure for programming with widespread appeal, remains true. Advertisers, however, also continue to play a critical role in financing the subscriber-based media products. Circulation represents a median of 23 percent of newspapers' total revenues; classified advertising, 33%; display advertising, 29%; and preprint advertising, 12%. Thus, the fact that the various forms of media seek advertising for financial sustenance is more relevant than whether they also receive revenues from other sources. Readership Institute, Media Management Center at Northwestern University, *Impact Sub-Studies; Cost and Revenues* (2001).

The newspaper and broadcast industries directly compete against one another for a share of the total advertising dollars available in any given local market. While it is true that advertisers might choose one medium over another in order to reach certain audiences or to accomplish certain purposes, newspapers, television and radio compete significantly at the local level for advertising dollars from a number of industries, including retailers and automobile dealers.[42] In 2000, advertisers spent almost 20% of their total advertising dollars on daily newspapers, 18.4% on broadcast television and 7.8% on radio.[43]

There are a number of important reasons why the combination of a newspaper and a radio/television station would not threaten the competitiveness of the local advertising market. First, the media are not always substitutable in the eyes of advertisers. For example, newspapers and broadcasters do not compete to a significant extent in the area of help wanted classified advertising. Classified advertising represents 34% of the dollars spent on advertising in Hearst Newspapers, with employment advertising accounting for 48% of those dollars in 2000.

Second, it is essential to consider the increasing number of other competitors for local advertising. While newspapers and broadcast may compete with one another for advertising revenue, their combined share represents only 46% of the combined national and local advertising market. A diverse and competitive market makes up the remaining 54%. Direct mail advertising represents 18% of all advertising expenditures; 13% is spent on weeklies, shoppers, pennysavers, and cinema advertising.[44] Dollars spent on cable television advertising increased

[42] Newspaper Association of America, *Leveraging Newspaper Assets: A Study of Changing American Media Usage Habits – 2000 Research Report* 32; Television Bureau of Advertising, <http://www.tvb.org/tvfacts/tvbasics>

[43] *NPRM* at ¶26. *See also Facts About Newspapers* at 13.

[44] *Facts about Newspapers* at 13.

15% between 1999 and 2000 to represent 6% of the total market. Other traditional forms of advertising include yellow pages, magazines, billboards and business papers.

The increase in Internet advertising represents additional competition within the local market.[45] While the Internet represented only two percent of all national and local advertising dollars spent in 2000, the industry saw a 313% growth in advertising revenues between 1998 and 2000.[46] The Commission inquires how substitutable Internet advertising is in the overall market.[47] Studies indicate that it is increasingly substitutable in a number of areas. Consumer brand advertising represents a significant category of Internet advertising spending. The Internet Advertising Bureau (IAB) reports that this includes, for example, advertising by the retail and automobile industries – two industries that advertise heavily in the local newspaper and broadcast markets.[48]

Classified advertising over the Internet also represents significant new competition to the newspaper industry.[49] At the national level, a sampling of web sites that provide classified advertising (and are not owned or operated by newspapers or broadcasters) include Monster.com,

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[45] *See UCLA Internet Report 2001.*

[46] *Facts About Newspapers* at 13 (2000); Newspaper Association of America, *Facts About Newspapers: A Statistical Summary of the Newspaper Industry 1999* at 13; *see also* Internet Advertising Bureau, *Internet Advertising Revenue Report, 1999 Third Quarter Results Executive Summary*, conducted by PriceWaterhouseCoopers (*IAB Report*).

[47] *NPRM* at ¶22.

[48] *IAB Report*. Source for comparable newspaper data: Market and Business Analysis, NAA, <http://www.naa.org/artpage.cfm>.

[49] "The growth of online classifieds poses the largest threat to newspapers, which derive a significant portion of their revenues and profits from print classifieds. Classifieds translate well online, leveraging the inherent strengths of the medium, including searchability and database functionality, faster updated listings and more flexible word-and-line spacing relative to print." Thomas Hyland, *Web Advertising, A Year of Growth* (1997), available at <http://www.IAB.net>.

Realtor.com, CityNews.com, Yahoo.com, Matchmaker.com, Autobytel.com and Classifieds2000.com. There are additional independently run web sites for classifieds at the local level, as well.[50]

C. Significant Economies of Scale Would Result From Repeal of the Newspaper-Broadcast Cross-Ownership Restriction

The Commission has already found in other recent rulemakings that relaxation or repeal of ownership rules will often result in increased efficiencies and economies of scale that create increased competition in a market.[51] The record in the biennial review proceeding is replete with evidence from several parties that such efficiencies would also result from repeal of the cross-ownership rule.[52] For example, co-ownership of a newspaper and broadcast station in the same market would increase the resources available to develop new technology and enhance coverage. With additional resources and cost savings associated with combined information-gathering and specialized reporting, both the newspaper and broadcast station could provide more in-depth and diverse news coverage. Common ownership of a newspaper and a television station will likely allow the newspaper to enhance the station's appeal and visa versa. For example, only 28% of adults aged 18-34 read a daily newspaper four out of the last five days.[53] A higher percentage of young adults watch television.[54] Through cross-owned relationships and resulting cross-

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[50] *See* examples in Albany, San Antonio, and San Francisco included in Appendices A-C.

[51] *See,e.g., Local Television Report and Order*; *Dual Network Order.*

[52] *See Hearst Comments* at 19-23; *Petition of Hearst, Media General, Gannett and Tribune* at 13-14; *Comments of Gannett Co., Inc.* at 27.

[53] Newspaper Association of America, *Leveraging Newspaper Assets: A Study of Changing American Media Usage Habits* 30 (2000).

[54] *Id.*

marketing, newspapers may be able to attract a larger number of younger readers. Likewise, newspapers with their more local focus can provide resources to a co-owned broadcast station to provide more in-depth local news, sports and weather coverage. Such synergies should raise the standard for news coverage in local markets, attracting new and more diverse audiences and, as a result, attracting advertisers. Costs can be saved by combined newsgathering, facilities, cross-marketing and shared overhead.[55] Such synergies are already evident in local radio markets as a result of co-ownership.[56]

In addition to improving comprehensive news coverage and attracting new audiences, combined ownership would also likely result in better use of developing technology to provide new and expanded services. As previously stated, "co-owned entities could have linked or joint web sites to allow consumers to achieve faster access to a broad range of news topics, including politics, the economy, sports, and entertainment, allowing better competition with other service providers."[57]

The Commission notes that some parties believe these efficiencies could be realized through joint ventures, without co-ownership.[58] Hearst respectfully disagrees. While joint ventures may result in important short-term benefits in the form of more in-depth and expanded

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[55] *Takeout Suburban Report: Conglomerate Ownership Gives Radio Stations Juice: Have New Power to Boost Ad Frequency with Package Deals and Improve Financials*, Crain's New York Business, June 16, 1997, at 32; *see also* Robert B. Ekelund, Jr., George S. Ford, Thomas Koutsky, *Market Power in Radio Markets: An Empirical Analysis of Local and National Concentration*, 43 J. Law & Econ. 157, 159, April, 2000.

[56] *Id.*

[57] *Petition of Hearst, Media General, Gannett and Tribune* at 14. *See also Hearst Comments* at 21.

[58] *NPRM* at ¶25, fn. 76.

information coverage, they do not present the same economic efficiencies as a co-owned relationship. Many of the cost savings mentioned above would not be available in a joint venture. In addition, there are the important and inevitable inefficiencies introduced by having the joint venture operating staff answerable to two masters, who may not always see eye to eye.

The overwhelming evidence presented in the Commission's record in the 1998 biennial review, as well as in the relaxation of other ownership rules, indicates that the local advertising market is competitive, that it would not be harmed by repeal of the cross-ownership rule and indeed, that repeal may actually enhance competition.

V. A Sampling of Three Hearst Markets Provides Additional Evidence of Local Diversity and Competition

In its *Notice*, the Commission seeks additional empirical data on diversity and competition within markets of varying size.[59] In the accompanying Appendices, Hearst provides statistical information about the number of diverse and competitive outlets available to residents in a sampling of three of its newspaper markets – Albany, San Antonio, and San Francisco.[60]

As the Commission will note, all three of these markets are extremely diverse in outlets and viewpoint. Information is provided not only on the diversity of and competition between the traditional newspaper and broadcast "voices" present, but also regarding additional outlets that add to both the diversity and competition in each market. Such breadth is believed to be

[59] *NPRM* at ¶15.

[60] In its recent *Radio NPRM*, the Commission suggests that specific case studies providing empirical data on local markets might indicate "the effect that consolidation will have on the public interest." *Radio NPRM* at ¶51-52.

appropriate and necessary for the Commission's analysis, and is consistent with the Commission's analysis in other similar rulemakings.[61]

In each of the three markets, Hearst also provides data on the competition for advertising dollars, and accounts for the consolidation that has already occurred in the radio and television markets. While the level of competition may vary between the various individual businesses in each market, the data leads to the same conclusion in each. Local diversity is ensured through the number of voices in each market, and local competition would not be adversely affected by a newspaper-broadcast combination.

VI. Conclusion

For the reasons set forth above, Hearst encourages the Commission to repeal the newspaper-broadcast cross-ownership rule. As presented for the record, both the level of diversity and competition in the local multi-media marketplace have increased to such a level since the rule's implementation in 1975 that its retention no longer serves the Commission's stated public interest. In fact, the rule's existence, particularly in light of the deconstruction of other rules, actually hinders the diversity and competitiveness of both the newspaper and broadcast industries. Repeal of the newspaper-broadcast cross-ownership rule would be

[61] *See, e.g., Local Television Report and Order.*

beneficial to the marketplace and consistent with the Commission's and Congress's recent treatment of other multiple ownership restrictions.

Respectfully submitted,

THE HEARST CORPORATION

Submitted by:

Jennifer L. Blum
Drinker Biddle & Reath LLP
1500 K Street, N. W.
Suite 1100
Washington, DC 20005

Its Attorneys

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